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CHUNGHWA PICTURE TUBES (MALAYSIA)
SDN. BHD.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION

Master File No. 3:07-CV-5944 SC
MDL No. 1917

This Document Relates To:

Best Buy Co., et al. v. Hitachi, Ltd., et al.,
No. 11-cv-05513

ViewSonic Corp. v. Chunghwa Picture Tubes,
Ltd., et al., No. 14-cv-02510

**DECLARATION OF AUSTIN SCHWING
IN SUPPORT OF DEFENDANTS
CHUNGHWA PICTURE TUBES, LTD.
AND CHUNGHWA PICTURE TUBES
(MALAYSIA) SDN. BHD.'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL PURSUANT TO CIVIL
LOCAL RULES 7-11 AND 79-5(d)
DOCUMENTS RELATED TO
CHUNGHWA'S REPLY IN SUPPORT OF
MOTION IN LIMINE TO EXCLUDE
OPINIONS OR CALCULATIONS
REGARDING ACTUAL DAMAGES
ATTRIBUTABLE TO THE CHUNGHWA
DEFENDANTS**

1 I, Austin Schwing, hereby declare as follows:

2 1) I am a partner in the law firm of Gibson, Dunn & Crutcher LLP, counsel of record for
3 Chunghwa Picture Tubes, Ltd. and Chunghwa Picture Tubes (Malaysia) Sdn. Bhd. (collectively,
4 “Chunghwa”) in the above-referenced action.

5 2) I submit this declaration in support of Chunghwa’s Administrative Motion to File
6 Under Seal Pursuant to Civil Local Rules 7-11 and 79-5(d) Documents Related to Chunghwa’s Reply
7 in Support of Motion in Limine to Exclude Opinions or Calculations Regarding Actual Damages
8 Attributable to the Chunghwa Defendants (“Reply”). Unless otherwise indicated, I have personal
9 knowledge of the foregoing and could and would testify to the same if called as a witness in this
10 matter.

11 3) On June 18, 2008, the Court approved a “Stipulated Protective Order” in this matter
12 (ECF No. 306, amended at ECF No. 1142) (the “Protective Order”).

13 4) Pursuant to the Protective Order and Local Civil Rules 7-11 and 79-5(d), Chunghwa
14 seeks to seal the following concurrently-filed documents:

- 15 a) The highlighted portions of Chunghwa’s Reply and the concurrently-filed
16 Declaration of Rachel S. Brass in Support of Chunghwa’s Reply (“Brass
17 Declaration”), which contain quotations or information from documents that
18 Chunghwa or certain Plaintiffs have designated “Highly Confidential.”
- 19 b) Exhibits 1, 2, and 3 to the concurrently-filed Brass Declaration, which are
20 documents that Chunghwa has designated “Highly Confidential.”
- 21 c) Exhibits 4, 5, and 6 to the concurrently-filed Brass Declaration, which are excerpts
22 of deposition transcripts or documents that certain Plaintiffs have designated
23 “Highly Confidential.”

24 5) The documents listed in Paragraph 4(b) have been designated as “Highly
25 Confidential” by Chunghwa pursuant to the Protective Order because they contain confidential,
26 nonpublic, and highly sensitive business information. Exhibits 1, 2, and 3 are internal reports
27 prepared by Chunghwa employees for review and analysis by Chunghwa supervisors. Those reports
28 were prepared by Chunghwa employees strictly for internal purposes. They consist of confidential,

1 nonpublic, proprietary and sensitive business information. They contain recommendations and
 2 analysis of sales, pricing, and customer conditions that Chunghwa employees submitted for
 3 consideration by senior management. On information and belief, disclosure of those documents
 4 would undermine Chunghwa's business relationships, cause it harm with respect to its competitors
 5 and customers, and put Chunghwa at a competitive disadvantage.

6 6) Page and lines 4:12-15 of Chunghwa's Reply contain quotations or reference
 7 confidential information from the Exhibits in Paragraph 5 that Chunghwa has designated "Highly
 8 Confidential." Such information is confidential and proprietary for the same reasons as the
 9 underlying exhibits, as set forth in Paragraph 5.

10 7) Pursuant to Civil Local Rules 7-11 and 79-5(d), this Court's General Order No. 62,
 11 Electronic Filing of Documents Under Seal, effective May 10, 2010, and the Protective Order,
 12 Exhibits 4, 5, and 6 to the Brass Declaration should be maintained under seal pending further
 13 supporting declarations from the designating parties. Under the Protective Order, it is the burden of
 14 the parties designating Exhibits 4, 5, and 6 as "Confidential" or "Highly Confidential" to demonstrate
 15 that those materials should remain under seal.

16 8) Pages and lines 3:22-23, 4:26-28, 6:13-21, 7:7, 7:9-12, 7:15-18, 7:20-21, 8:17, 10:7-9,
 17 10:12-13 and portions of footnote 2 of Chunghwa's Reply, and pages and lines 1:21 and 1:25-2:2 of
 18 the Brass Declaration contain quotations or reference confidential information from the Exhibits in
 19 Paragraph 7 that Plaintiffs have designated "Confidential" or "Highly Confidential." Under the
 20 Protective Order, it is the burden of the parties designating that material to demonstrate that those
 21 materials should remain under seal.

22
 23 I declare under penalty of perjury that the foregoing is true and correct.

24 Executed this 6th day of March 2015, at San Francisco, California.

25
 26 By: /s/ Austin Schwing
 27 Austin Schwing
 28

DECLARATION OF SERVICE

I, Joseph Hansen, declare as follows:

I am employed in the County of San Francisco, State of California; I am over the age of eighteen years and am not a party to this action; my business address is 555 Mission Street, Suite 3000, San Francisco, California, 94105, in said County and State. On the date below, I served the within:

DECLARATION OF AUSTIN SCHWING IN SUPPORT OF DEFENDANTS CHUNGHWA PICTURE TUBES, LTD. AND CHUNGHWA PICTURE TUBES (MALAYSIA) SDN. BHD.'S ADMINISTRATIVE MOTION TO FILE UNDER SEAL PURSUANT TO CIVIL LOCAL RULES 7-11 AND 79-5(d) DOCUMENTS RELATED TO CHUNGHWA'S REPLY IN SUPPORT OF MOTION IN LIMINE TO EXCLUDE OPINIONS OR CALCULATIONS REGARDING ACTUAL DAMAGES ATTRIBUTABLE TO THE CHUNGHWA DEFENDANTS

to all named counsel of record as follows:

☒ **BY ECF (ELECTRONIC CASE FILING):** I e-filed the above-detailed documents utilizing the United States District Court, Northern District of California's mandated ECF (Electronic Case Filing) service on March 6, 2015. Counsel of record are required by the Court to be registered e-filers, and as such are automatically e-served with a copy of the documents upon confirmation of e-filing.

I certify under penalty of perjury that the foregoing is true and correct, that the foregoing document(s) were printed on recycled paper, and that this Declaration of Service was executed by me on March 6, 2015, at San Francisco, California.

/s/ Joseph Hansen

Joseph Hansen

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